

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:19-CR-00307-RJC-DCK

USA

v.

JONATHAN MYKEIL ROBINSON

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ORDER

THIS MATTER is before the Court upon motion of the defendant to reconsider the dismissal of his motion to suppress and to conduct an evidentiary hearing. (Doc. No. 30).

The defendant's former counsel filed a motion to suppress, (Doc. No. 18), approximately 8 months late, (Scheduling Order, Nov. 22, 2019), without leave. After the Court denied the motion as untimely under Rule 12 of the Federal Rules of Criminal Procedure, (Oral Order, Nov. 20, 2020), counsel moved to withdraw, (Doc. Nos. 24, 25). New counsel was appointed on November 24, 2020, and moved to continue the trial to February 1, 2021, (Doc. No. 26: Motion), which was granted, (Doc. No. 27: Order).

On January 21, 2021, new counsel filed the instant motion, essentially refiling former counsel's motion and asking that it be decided on its merits. (Doc. No. 30). The appointment of new counsel does not reset the deadline in Rule 12 nor does it establish good cause to waive it. United States v. Santana-Dones, 920 F.3d 70, 81 (1st Cir. 2019) ("allowing new counsel to reopen an expired deadline in order to pursue strategic options forgone by prior counsel would put a premium on

changing counsel and unfairly advantage the defendant”), cert. denied, 140 S. Ct. 257 (2019). Therefore, the Court will not hold an evidentiary hearing on the untimely motion. If, however, the evidence presented at trial establishes that the stop and search of the vehicle the defendant was driving was unlawful, the Court will reconsider its ruling.

IT IS, THEREFORE, ORDERED that the defendant’s motion, (Doc. No. 30), is **DENIED**.

The Clerk is directed to certify copies of this order to the defendant, counsel for the defendant, and to the United States Attorney.

Signed: January 28, 2021

A handwritten signature in black ink, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

